

TITLE 326 AIR POLLUTION CONTROL BOARD
#02-54(APCB)

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from August 1, 2002, through August 30, 2002, on IDEM's draft rule language. IDEM received comments from the following parties:

National Steel Corporation (NSC)
Clean Air Action Corporation (CAAC)
Ispat Inland Inc. (II)
International Steel Group (ISG)
Purdue University (PU)
Barnes and Thornburg for Bethlehem Steel Corporation (BSC)
U.S. Steel (USS)
Indiana Department of Commerce (IDC)
American Electric Power (AEP)

Following is a summary of the comments received and IDEM's responses thereto.

Comment: National Steel supports the proposed change in the rule that clarifies that our company is not subject to any portion of 326 IAC 10-4. The company no longer operates any affected units and were not allocated any NOx allowances for the now-retired units. (NSC)

Response: IDEM agrees that a company that does not have any affected units should not be included in the rule.

Comment: Allow non-budget sources that make qualified emission reductions to receive allowances equivalent to those reductions. It would be a voluntary program and not take place under the opt-in provision. We would like to have IDEM add the following clause to the allowance trading rule:

“The permitting authority may allocate additional allowances to NOx Budget units that have been generated through NOx emission reductions from industrial, mobile, and area source sectors that are permanent, enforceable, quantifiable, and surplus as determined by and approved by the Administrator and permitting authority.” (CAAC)

Response: IDEM is not prepared to make this change to the rule at this time. In the NOx SIP Call, U.S. EPA indicated that there would be monitoring issues associated with mobile and area sources and non-budget industrial sources that would require additional evaluation to determine their

suitability for inclusion in the trading program. The suggested language has many policy implications, and is beyond the scope of this rulemaking.

Comment: The CEM certification for operating budget units affected by these rule changes, should be May 1, 2003 or 180 days after the effective date of the rule, whichever is later. (II)

Response: 326 IAC 10-4-2(10) defines the term “commence operation”. For a unit that was not subject to the NOx trading program when the unit commenced operation, the definition states that the date the unit becomes subject to the rule, i.e., the rule’s effective date, is the unit’s date of commencement of operation. Under 326 IAC 10-4-12(c), the monitoring deadline is based on the date the unit commenced operation and requires compliance within one hundred eighty (180) days or ninety (90) days depending on whether the unit is an electricity generating unit. Therefore, units that are newly regulated under the NOx trading program would have up to one hundred eighty (180) days after the effective date of the rule to meet the monitoring requirements.

Comment: Allow companies with blast furnace gas-fired boilers currently regulated under 326 IAC 10-3 the flexibility to opt-into and out of the NOx trading program, at their option, under 326 IAC 10-4. There are several suggested changes that should be included to allow for this flexibility:

- Boilers opting into the trading program must be allocated NOx allowances based on a minimum of seventeen hundredths (0.17) pound per million Btu emission rate and the unit specific allocations should be included in 326 IAC 10-4-9(d).
- The monitoring deadline should be extended to November 1, 2003, for units opting into the trading program.
- The rule should include specific procedures for opting into and out of the trading program under 326 IAC 10-4, including notification requirements. (ISG)(BSC)(USS)

Response: Companies already have the ability to opt-into the NOx trading program under 326 IAC 10-4. 326 IAC 10-4-13 provides the procedures and requirements for opting into the NOx trading program. This was included with U.S. EPA’s original SIP call and the language under this section describes the methodology and the emission rate that must be used to establish NOx allowance allocations for units that are opting into the trading program. This section also specifies the procedures that the owner or operator of a unit must use to opt into and out of the trading program and NOx monitoring requirements. IDEM is unaware of any flexibility on the part of U.S. EPA to allow for alternative language or methodologies.

In addition, companies that have affected boilers currently regulated by 326 IAC 10-3 may shift them permanently into the trading program in 326 IAC 10-4, as Ispat Inland is doing as a part of this rulemaking. They would receive allowances equal to the emission limit in 326 IAC 10-3, that is, .17 lb./mmBTU.

Comment: IDEM should not allow for any allocations in excess of seventeen hundredths (0.17) pound per million Btu emission rate for any units moving from 326 IAC 10-3 to the trading

program under 326 IAC 10-4. This could affect the ability of Indiana to maintain the NO_x budget and would provide unfair competitive advantage to those receiving allocations based on a higher emission rate. (ISG)(USS)

Response: IDEM agrees that industrial boilers opting into the NO_x trading program from 326 IAC 10-3 should receive allocations based on seventeen hundredths (0.17) pound per million BTU emission rate.

Comment: Amend 326 IAC 10-4-2(18)(D) to add anaerobic digesters to the list of those eligible for EE/RE allowances. Anaerobic digesters are closed, air-tight systems that utilize bacteria to break down organic matter using the same biological processes as natural decomposition. A major by-product of this system is methane gas. The combusting of methane gas in engines or turbines connected to electric generators reduces greenhouse gas emissions and produces energy. (IDC)

Response: IDEM will make the proposed change.

Comment: We recommend that the department expeditiously move this rulemaking through the state rule process without any further changes and urge U.S. EPA to promptly adopt the changes in this rulemaking into the approved NO_x SIP. (AEP)

Response: IDEM will continue the rulemaking expeditiously in accordance with Indiana statutory requirements and will work closely with U.S. EPA to gain their approval.

Comment: The allocation level provided in the 2nd notice for Purdue's Boilers 1, 2, and 3 which were not originally included in the current rule, are a source of concern. Purdue believes that the allocations as currently proposed are lower than would have otherwise been received if it had been included in the original rulemaking. Purdue requests that the department examine the historic, current, and projected NO_x emission rates from Purdue in relationship to allocations that were made in the rule and develop an allocation that is consistent with that developed for other facilities. (PU)

Response: IDEM will continue to work with Purdue University during the rulemaking to evaluate all available options in light of the need for U.S. EPA's approval.